

1 (Open court, defendant present.)

2 THE COURT: Let's bring in the jury, please.

3 (Jury in.)

4 THE COURT: Please be seated.

5 Ladies and gentlemen, I am so sorry for the misstep
6 yesterday. I apologize very much that you-all had to lose a
7 day of hearing testimony. My son had an emergency appendectomy
8 and I spent all of Tuesday night at Texas Children's and he had
9 surgery yesterday morning. So I apologize. That was
10 completely my fault. It had nothing to do with the case and
11 the lawyers involved. We are back on track. Thank you so much
12 for being here right on time.

13 You may proceed.

14 MS. FULLER: Thank you, your Honor.

15 INVESTIGATOR M.F. WATERS,
16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. FULLER:

19 Q. Investigator Waters, you are the same Investigator
20 Waters who was here testifying on Tuesday; is that correct?

21 A. Yes.

22 Q. Okay. And you're still under oath; is that correct?

23 A. That is correct.

24 Q. All right. I want to -- I want to take a couple of
25 steps back to when you arrived at the scene on June 19, 2010.

1 Can you tell us what your impressions were of the scene when
2 you got there?

3 A. My initial impressions, viewing the body, viewing the
4 scene, was that the act itself had been very quick, had been
5 very direct, and in my mind, had been an intentional act to
6 acquire the purse and the items in it from Aidee.

7 Q. Now, as all of your years as a homicide investigator,
8 what made you come to those conclusions?

9 A. Number one, there was no sign of a struggle of any
10 kind. Just looking at her body lying on the ground, did not
11 appear that there had been any kind of fight involved or any
12 kind of resistance. There was no other trauma on the body that
13 I viewed at the scene that -- other than the gunshot wound to
14 the throat.

15 The gunshot wound was a contact wound, so my view of
16 that was is that whoever had done this made a quick approach to
17 her, put the pistol into her throat, made the demand, pulled
18 the trigger, and then she fell to the ground dead before she
19 ever hit the ground, and then the purse was taken, matter of
20 seconds that this occurred.

21 Q. Now, you said that it was a contact wound, what does
22 that mean?

23 A. The muzzle of the weapon had been placed into the
24 skin, into the throat. And that leaves the tattooing, the
25 charring that has almost the shape of the muzzle itself,

1 tattooed is what we call it, onto her skin.

2 Q. Now, when you got to the scene and you observed
3 Aidee's body, did it appear that her body had been moved in any
4 way?

5 A. No.

6 Q. Now, jumping forward a little bit, after you obtained
7 those bank records, you were able to use those bank records to
8 see a map of where her credit card had been used. Is that fair
9 to say?

10 A. Yes.

11 MS. FULLER: May I approach the witness, your Honor?

12 THE COURT: You may.

13 Q. (By Ms. Fuller) I'm going to show you what has been
14 marked as State's Exhibit 66. Do you recognize this?

15 A. Yes.

16 Q. Is this a fair and accurate depiction of locations
17 that we've already discussed?

18 A. Yes.

19 Q. Did you prepare this?

20 A. I did not.

21 Q. Okay. Is it drawn to scale?

22 A. I doubt it.

23 Q. Okay.

24 Would this aid the jury in their understanding of the
25 locations that we have already discussed?

1 A. I think so, yes.

2 MS. FULLER: Your Honor, at this time State moves to
3 admit State's Exhibit 66, tenders to Defense counsel for
4 inspection.

5 MS. SCARDINO: I have seen this prior to trial, your
6 Honor, I have no objection.

7 THE COURT: It will be admitted.

8 MS. FULLER: May I publish to the jury?

9 THE COURT: You may.

10 MS. FULLER: And may Officer Waters come down off the
11 stand to -- if you could follow me.

12 A. (Complies.)

13 MS. FULLER: Katherine, can you see okay?

14 MS. SCARDINO: No. With the Court's permission I'll
15 move on here.

16 THE COURT: Certainly.

17 Q. (By Ms. Fuller) Okay. Now, State's Exhibit 66, can
18 you tell me what location A is.

19 A. This will be the scene. This is where Aidee was
20 killed at the Stancliff Park apartments.

21 Q. Okay. And the B, what is the B?

22 A. The B will be the first use of the card, about
23 45 minutes after Aidee is murdered, at the RaceTrac gas station
24 on Bissonnet.

25 Q. Do you know approximately how far the distance is

1 between A and B?

2 A. I do not. I'm going to guess, just looking at the --

3 MS. SCARDINO: Objection to guesses, your Honor,
4 speculation.

5 THE COURT: If he knows.

6 THE WITNESS: I'm sorry?

7 THE COURT: You can estimate, but speculating --

8 A. My estimate would be a couple of miles, but I don't
9 know that.

10 Q. (By Ms. Fuller) So someplace that you could travel by
11 foot or by car?

12 A. Sure.

13 Q. Okay. What does location C on State's Exhibit 66
14 represent?

15 A. This would be the Texaco station, also on Bissonnet.
16 This was the -- the card had been used twice at this location,
17 the RaceTrac and then there was another attempt here at the
18 Texaco.

19 Q. Okay. And we've got a red square right here on
20 State's Exhibit 66. What does that represent?

21 A. That's going to be Boone Road. That's going to be
22 the apartment complex, I believe where the -- the porn site was
23 accessed.

24 Q. Okay. And State's -- on State's Exhibit 66, what
25 does D represent?

1 A. D is going to be the first Walmart off of Beechnut
2 where we see the defendant getting out of a black vehicle
3 walking in and using the card.

4 Q. Okay. And that was the location where he was seen by
5 himself using the card; is that correct?

6 A. That's correct, that's correct.

7 Q. Okay.

8 And what does E represent?

9 A. That --

10 Q. Top corner of 66?

11 A. This is going to be the attempt at the Sharpstown
12 Mall to use the card at an ATM machine at that location.

13 Q. All right. And then F on State's Exhibit No. 66?

14 A. This is going to be the last -- the second Walmart at
15 the Murphy gas station at -- off of Sam Houston Tollway.

16 Q. And is this a location where we see him walking in
17 with three other individuals?

18 A. Yes.

19 Q. Okay. And all of this is within basically the same
20 geographic area of where Aidee was killed?

21 A. Yes.

22 Q. And also the same geographic area of the Boone Road
23 location where there was porn being purchased?

24 A. The porn site, correct.

25 Q. Okay. Thank you.

1 A. (Returns to seat.)

2 Q. Now, before you interviewed the defendant in this
3 case, you interviewed Kendrick Baldwin; is that correct?

4 A. No. Sergeant Roberts actually interviewed Kendrick
5 Baldwin. On video, on that tape, I did talk to Kendrick. Of
6 course, at his home, and he came down with us to take part in
7 the interview.

8 Q. Okay. So you and Sergeant --

9 A. Roberts.

10 Q. Roberts went to the location -- I believe it was his
11 girlfriend's house at the time -- and spoke with him and he
12 voluntarily agreed to come down to the station with you --
13 excuse me -- that's Seitrich. Tell us how you got to Kendrick.

14 A. Well, Kendrick Baldwin, we got to him through
15 Shajuana Pope, and actually met with him at his -- the
16 apartment, he had a couple of apartments, and located him,
17 located the car that Shajuana had taken the defendant in on the
18 first trip to the first Walmart. Made contact with Kendrick,
19 asked him to come down and talk to us, and he voluntarily came
20 down and spoke with us about the particular investigation that
21 we were involved in.

22 Q. And did he come down with you by himself?

23 A. No, he did not. Actually, as we were leaving the
24 apartment complex with Kendrick, Shajuana Pope was walking down
25 the street. We stopped, talked to her, and she volunteered to

1 come down as well and speak with us.

2 Q. What is the relationship between Kendrick and
3 Shajuana?

4 A. A mother-son relationship.

5 Q. Okay.

6 A. For lack of a better.

7 Q. Okay. She's his, Shajuana is Kendrick's biological
8 mother?

9 A. Yes, that's my understanding.

10 Q. Okay.

11 Now, how is it that you got to their apartment? What
12 apartment was it that led you to Kendrick and Shajuana?

13 A. I'd have to go back into my supplement here and give
14 you the most accurate way that we got to them, but we had
15 talked to some -- some other folks in the investigation who
16 provided us information about addresses that Kendrick had, and
17 Shajuana had, and some old addresses, and we were able to
18 determine where Kendrick was now currently staying. He
19 actually had two apartments in a particular apartment complex.

20 Q. Okay. Let me ask it this way, do you remember the
21 name of the street name that those apartments were on?

22 A. I don't. I'd have refer to my --

23 Q. Okay. Could you do that?

24 A. Sure. (Complies.)

25 It is the Waterfall Apartments, the name of the

1 apartments. And that was apartment 195 on Corporate Drive.

2 Q. Okay. What is the significance of the Boone Road
3 location that we have on State's Exhibit 66?

4 A. They had once resided there. There had been some
5 problems with a particular apartment in those apartments, and
6 Shajuana Pope and Kendrick Baldwin had been associated with
7 that apartment.

8 Q. Okay.

9 A. And -- and the IP address on the e-mail which
10 belonged to Kendrick Baldwin went back to those apartments.
11 That's where the porn sites had been accessed, at those
12 apartments on Boone Road.

13 Q. Okay. So, you find Kendrick Baldwin and Shajuana
14 Pope and they voluntarily come down to the station to give an
15 interview; is that correct?

16 A. Yes.

17 Q. Now, were either of those two witnesses ever deemed
18 to be suspects in Aidee's death?

19 A. We did look at Kendrick Baldwin because he was a
20 similar described person in the videos, but determined later
21 that he had been working at the Walmart at the time that Aidee
22 had been murdered.

23 Q. Okay. And what about Shajuana Pope, was she ever
24 deemed to be a suspect in Aidee's death?

25 A. No.

1 Q. Okay. Now, did you give both of them a ride down to
2 the police station?

3 A. We did.

4 Q. And did you provide them both a ride back home after
5 their interviews were complete?

6 A. Yes.

7 Q. And we saw when we watched the statement on Tuesday
8 that you played Kendrick's statement to the defendant; is that
9 correct?

10 A. That is correct.

11 Q. To your knowledge, did you play all of Kendrick's
12 statement to the defendant?

13 A. I don't recall if I played the entire statement, but
14 played the beginning and through the pertinent part of the
15 statement.

16 Q. All right. Now, why did you allow the defendant to
17 listen to Kendrick's statement?

18 A. Because it was the defendant's story to what we would
19 call an admission witness. Kendrick and he had a relationship
20 where they considered themselves to be brothers, and so there
21 was obviously a bond there between the two. The defendant felt
22 like he could trust Kendrick to express to him what had
23 happened, and was giving him a story about what had occurred
24 and how he got this -- how he had accessed this card.

25 Q. Okay. And do you recall in a statement that the

1 defendant did recognize Kendrick's voice in that recording?

2 A. Yes, he does. I asked him specifically if he
3 recognized Kendrick's voice and he acknowledged that he did.

4 Q. Now, we all saw the statement on Tuesday, and it was
5 quite lengthy. It's --

6 A. Yes, it was.

7 Q. Why did you keep questioning the defendant after his
8 repeated denials of what had happened that day?

9 A. Well, the only -- in a generic sense, the only person
10 that can end the interview is the interviewer, and at the time
11 that I was in there, there was at no point where I believed
12 that he would not eventually give me a version of what occurred
13 out there. I recognized it was probably going to be
14 self-serving. However, I was going to stay in there as long as
15 I needed to because I believed the body language that I was
16 reading, the things that he was saying, the manner in which he
17 was saying it, indicated to me that he was -- he was right
18 there, and I'm not one to stop when we're that close.

19 Q. Okay. Well, let's talk about a few of those things.
20 Let's talk about body language. What were you seeing in the
21 defendant's body language that through your training and your
22 experience meant something to you as a homicide investigator?

23 A. Well, those observations begin the minute I walk in
24 the door. And if you recall what I see when I walk in the room
25 and start to talk to the defendant, is that he is leaned

1 forward, his elbows are on his knees, and that tells me that he
2 is going to be engaged in our conversation. He wants to talk
3 about what we're going to talk about.

4 And I recognize as well -- I mean, I've done enough
5 of these, that I know that he too is going to be on a fishing
6 expedition. He wants to know what I know. So, my first
7 impression of him is, number one, he is going to tell me, I
8 didn't realize it was going to take that long, but he is going
9 to tell me what I need to know, and get us to the truth.
10 That's what I always express to anyone when I get them in the
11 interview room, we're seeking the truth. So he was engaged
12 from the very beginning.

13 Q. All right. Those are the beginning things that you
14 see?

15 A. Right.

16 Q. How does his body language change throughout the time
17 of the interview and what does that mean to you as an
18 interviewer?

19 A. Okay. Then throughout the interview, you see him
20 shift, you see things start to happen with his body, and these
21 are things that he cannot control. There are just certain
22 things about the human body that when things are going on in
23 the head that they will express themselves through the body,
24 and they're not able to control those things.

25 So, when you see him, what we call create distance,

1 where he became -- when he drew back into the chair, he's
2 creating distance because now he's hearing things that he
3 doesn't particularly want to hear.

4 MS. SCARDINO: Your Honor, excuse me. I'm going to
5 object to this line of questioning with regard to body
6 language. I don't believe that it's been declared a science,
7 and I don't think, as much experience as Officer Waters has,
8 that he would be an expert in the field of body language if it
9 were a field. So I'm objecting to him taking that body
10 language testimony and saying that that's what it means as it
11 applies to my client.

12 THE COURT: I'm going to overrule that.

13 Q. (By Ms. Fuller) All right. So you said that he's
14 created distance, by leaning back and crossing his arm?

15 A. Right. These are my observations of him.

16 Q. All right. What else does he do?

17 A. You see him a couple of times where he crosses his
18 hands in front of his body, and that's closing off. So now he
19 is -- we're getting to some sensitive areas of the discussion.
20 Then I watch the legs. You see his leg, one of 'em continues
21 to bounce, kind of at a nervous pace. Then he starts -- I'm
22 listening at the same time that all this is going on, of course
23 I'm listening to what he's saying. He begins to make
24 qualifying statements.

25 Q. What are qualifying statements?

1 A. That wasn't me, that's not me, I wouldn't do
2 something like that.

3 Q. And why are those important?

4 A. Well, they're important because he's already trying
5 to put together a story. He's trying to deny that what he has
6 done is, in fact, what he did.

7 MS. SCARDINO: Your Honor, objection. Again, this
8 is -- he is implying that he knows what's in my client's head.
9 I'm objecting to him testifying to whatever knowledge he thinks
10 he's getting from a leg bouncing.

11 THE COURT: I'm going to overrule your objection. I
12 think it goes to the weight of what he's saying.

13 A. Well, remember this too, this isn't all happening in
14 a vacuum. I mean, these -- these --

15 MS. SCARDINO: Objection. There's been no question.

16 THE COURT: That's sustained.

17 Q. (By Ms. Fuller) I'm not sure what question you were
18 answering --

19 A. Well, I was just continuing on with the --

20 Q. -- before --

21 A. I was continuing on with the question that you asked
22 me before the objection.

23 Q. Right. What I don't remember is the question before
24 that question.

25 A. Okay.

1 Q. So -- I believe the question --

2 A. I just remember the answer. I don't remember the
3 question.

4 Q. You were talking about leg shaking and why that was
5 significant to you.

6 A. Right.

7 Okay. Well, that is all part of the observations
8 that I have to make that I'm responsible for in the interview
9 room while listening to what is being said and how it is being
10 said.

11 Q. All right. Now, are there any other things that you
12 notice the defendant's body doing throughout that time?

13 A. He maintained that type of a thing. I watched him as
14 he went in and out of closing off, opening up, wanted to leave
15 the room. We determine when he turns the head a couple of
16 times and he's kind of off where he's really not appearing to
17 pay attention, in our classes that we teach we call it going to
18 Hawaii, because he would like to be anywhere else but in that
19 room.

20 Q. But at no time did you see him actually terminate the
21 interview and say I want to go home?

22 A. At no time.

23 Q. Okay.

24 Now, you stated that these observations are not all
25 in a vacuum. So, how is it that you're using what he's saying

1 and his body language to determine how you proceed with your
2 questioning?

3 A. Prior to every interview we plan, we research. I
4 want to have as much knowledge about the person I'm going to go
5 talk to and about the scene and the investigation as we go into
6 it.

7 Things ebb and flow in the interview room. So my
8 approach in this particular case was to be a father figure, and
9 in the course of that interview, I share a bit of myself with
10 him. The life lesson stories that I'm talking about there that
11 about my son are true, I'm not making this stuff up. So share
12 a little bit with him, because the whole purpose is to gain his
13 trust.

14 And as we move through the interview, the theme of
15 the interview becomes one of we all make mistakes, and because
16 he had already offered a story to Kendrick Baldwin that it had
17 been an accident, that accidents occur, and you heard me use
18 the term unintended consequences, so that was the theme
19 throughout the interview, because this is the -- the theme that
20 the defendant established before we ever got into the interview
21 room. So I wanted to stay with that theme in order to gain his
22 trust so that he would feel comfortable enough to trust me to
23 tell me what happened out there when he murdered Aidee.

24 Q. All right. So you adopted the themes that people --

25 MS. SCARDINO: Excuse me. I'm going to object to the

1 word murder. He -- that is the province of this jury to make
2 that determination, and I would ask that that comment be
3 stricken.

4 THE COURT: It does call for a legal conclusion, that
5 particular word.

6 THE WITNESS: Yes, Judge.

7 THE COURT: Refrain from using it please, sir.

8 Q. (By Ms. Fuller) Did you believe while you were
9 telling him that it was accidental and unintended consequences,
10 did you believe that to be true?

11 A. No.

12 Q. And why did you not believe that to be true?

13 A. Based on what I had seen at the scene, and the way he
14 was acting in the room.

15 Q. All right. Now, did you find any evidence at the
16 scene with Aidee's body that would indicate that something
17 accidental had occurred?

18 A. No.

19 Q. How long again have you been in homicide?

20 A. I'm sorry?

21 Q. How long have you been in homicide?

22 A. At that --

23 MS. SCARDINO: Excuse me, asked and answered.

24 THE COURT: It's overruled.

25 A. At that time, 3 years ago, about 15 1/2 years I

1 think, 16, close to 16.

2 Q. (By Ms. Fuller) Okay. Do you believe that based on
3 the evidence that you saw in the scene and the information that
4 you got from the defendant in the interview room, that it was
5 an intentional act that occurred on the scene with Aidee?

6 A. Yes.

7 MS. SCARDINO: Objection. That's been asked and
8 answered as well.

9 THE COURT: Sustained.

10 Q. (By Ms. Fuller) In your opinion as a homicide
11 investigator, did the evidence on the scene support the
12 defendant stating that the gun went off when he hit her on the
13 left side of the face?

14 A. No, it did not.

15 Q. And why is that?

16 A. There were -- that was a result of the autopsy.
17 There were no signs of any other trauma on Aidee's body except
18 for the single gunshot wound, contact wound to the throat.

19 Q. And did you attend the autopsy --

20 A. I did.

21 Q. -- of Aidee Reyna? You attended the autopsy of Aidee
22 Reyna?

23 A. Yes.

24 Q. Okay.

25 Throughout the interview with the defendant, in your

1 opinion, did he ever show any remorse for what happened with
2 Aidee Reyna?

3 A. No.

4 Q. Did he show any emotions whatsoever throughout the
5 course of the interview?

6 A. None.

7 Q. After the defendant gave his statement to you, what
8 happened next in your investigation?

9 A. He -- I contacted the district attorney's office, and
10 spoke to an assistant district attorney there, advised her of
11 what had occurred in the interview room, and he was then
12 charged with -- they accepted a charge of capital murder, and
13 he was charged with that crime.

14 Q. All right. Now, even after obtaining that charge,
15 was your investigation finished?

16 A. No.

17 Q. What further investigation did you do in this case?

18 A. Once we -- after the interview was concluded, the
19 defendant had provided some other information that led us to
20 Kendrick Baldwin's apartment where we retrieved a box of .40
21 caliber ammunition, and a magazine that was purportedly from
22 the weapon that had been used in the capital murder.

23 Q. And to be correct, that was actually obtained during
24 the interview, was it not?

25 A. That was a result of the interview with the

1 defendant.

2 Q. Okay.

3 A. Yes.

4 MS. FULLER: May I approach the witness, your Honor?

5 THE COURT: You may.

6 Q. (By Ms. Fuller) Let me show you what has been marked
7 as State's Exhibit 94, 95, and 96. Do you recognize these
8 photos?

9 A. I do.

10 Q. And do these photos fairly and accurately depict what
11 they purport to depict?

12 A. Yes, they do.

13 Q. Were these photographs taken by you?

14 A. Yes, they were.

15 Q. Do you recall when they were taken?

16 A. That would have been the morning of the 6th of
17 August, I believe, because we started the interview August 5th,
18 obviously went into the morning hours, and August 6th retrieved
19 this evidence.

20 Q. Okay. So this was evidence that was retrieved after
21 interviewing the defendant?

22 A. Correct.

23 Q. Okay.

24 MS. FULLER: Your Honor, at this time State moves to
25 admit State's Exhibits 94, 95, and 96 and tenders to Defense

1 counsel for inspection.

2 MS. SCARDINO: No objection, your Honor.

3 THE COURT: 94, 95, and 96, State's Exhibits, will be
4 admitted.

5 MS. FULLER: Permission to publish, your Honor?

6 THE COURT: You may.

7 Q. (By Ms. Fuller) All right. State's Exhibit 94, what
8 are we looking at in State's Exhibit 94?

9 A. That will -- are you asking me?

10 Q. Yes, sir.

11 A. That will be the -- that will be the kitchen area at
12 7502 Corporate Drive, apartment 195.

13 Q. Okay. And again, who told you -- who told you about
14 the evidence that you see in State's Exhibited 94, 95, and 96?

15 A. The defendant.

16 Q. State's Exhibit 95?

17 A. That would be the kitchen cabinet that I was directed
18 to, and the box of ammunition that's in the second shelf of
19 that cabinet.

20 Q. And State's Exhibit 96?

21 A. That is the ammunition that was in the box as well as
22 the magazine from the weapon.

23 Q. And was this the way that you found the magazine and
24 the box of bullets?

25 A. Yes.

1 MS. FULLER: Permission to approach the witness, your
2 Honor?

3 THE COURT: You may.

4 Q. (By Ms. Fuller) Let me show you what's been marked as
5 State's Exhibit 96. What is that?

6 A. This would be the evidence bag containing the box of
7 bullets, and the magazine.

8 MS. SCARDINO: What exhibit number are you referring
9 to on that?

10 MS. FULLER: State's Exhibit 96.

11 MS. SCARDINO: Wasn't 96 the photograph?

12 MS. FULLER: Was that the last one? Okay. So it
13 would be State's Exhibit 98 -- excuse me -- State's Exhibit 97
14 is what we'll make it. I can't count.

15 Q. (By Ms. Fuller) All right. State's Exhibit 97, what
16 is State's Exhibit 97?

17 A. That's the box of bullets and the magazine.

18 Q. Okay. So once you retrieved 'em from the kitchen
19 cabinet, what did you do with that evidence?

20 A. It was taken and I submitted it to our property room,
21 our evidence room.

22 Q. Okay. Did you yourself put it in this bag?

23 A. I did -- I didn't put it in this bag, but submitted
24 it to the property room. They put it in a bag, which I initial
25 that bag securing it.

1 Q. Okay. So you see your initials on the evidence
2 labels?

3 A. That's correct, right here.

4 Q. Okay. If you would please, open.

5 A. (Complies.)

6 Q. State's Exhibit 97, is that the same evidence that
7 you collected from that location provided to you by the
8 defendant?

9 A. Yes.

10 MS. FULLER: Your Honor, at this time State moves to
11 admit State's Exhibit 97, the bag and the contents of the bag,
12 tenders to Defense counsel for inspection.

13 MS. SCARDINO: Your Honor, I would object to State's
14 Exhibit No. 97 until it can be associated with this offense.

15 THE COURT: It's overruled. It's admitted.

16 Q. (By Ms. Fuller) State's Exhibit 97, can you tell me,
17 what type of bullets are the bullets?

18 A. These are .40 caliber jacketed hollow points.

19 Q. Okay. And the clip, can you tell what kind of a clip
20 it is?

21 A. Yes.

22 Q. Can you tell what kind of a gun it goes into?

23 A. Yes.

24 Q. How so?

25 A. The brand is stamped on the base of the magazine.

1 Q. Okay. And what brand is that?

2 A. Glock.

3 Q. Okay. Can you tell from the clip what kind of
4 caliber ammunition it would take?

5 A. Yes.

6 Q. Is that also stamped on there?

7 A. It may be. I think Glock does stamp it on here, but
8 this is clearly a .40 caliber -- my experience tells me this is
9 a .40 caliber magazine.

10 Q. Okay. So these bullets would fit into this magazine?

11 A. Yes.

12 Q. Okay. And you said that these were what kind of
13 cartridge?

14 A. They're a .40 caliber jacketed hollow point.

15 Q. What is a jacketed hollow point bullet?

16 A. It is a lead interior, lead middle of the bullet.
17 There's a copper jacket, if you will, around that bullet, and
18 then the top of it is hollowed out, so it's a hollow pointed
19 bullet.

20 Q. Investigator Waters, in your experience as a homicide
21 investigator, is a Glock 40 a firearm?

22 A. Yes, it is.

23 Q. And is a firearm a deadly weapon?

24 A. Yes, it is.

25 Q. After you obtained the magazine and the box of

1 bullets, did you do any further investigation in this case?

2 A. Probably just some shoring up of what we had in terms
3 of the putting the investigation together.

4 MS. FULLER: Pass the witness, your Honor.

5 THE COURT: Cross-examination?

6 MS. SCARDINO: Thank you. May I proceed, your Honor?

7 THE COURT: You may.

8 CROSS-EXAMINATION

9 BY MS. SCARDINO:

10 Q. Officer Waters, let's start with the scene. You
11 testified to some questions that Ms. Fuller asked you with
12 regard to what you saw and your interpretation of what you saw
13 at the scene.

14 A. Yes, ma'am.

15 Q. Okay. You said something that I'd like to question
16 you about, where you said, first of all, the purse was taken in
17 a matter of seconds. Isn't that what you told the jury?

18 A. I believe that's what I said, yeah.

19 Q. Okay. And I believe that yesterday when we were
20 watching this statement, one of the things that you talked
21 about with Seित्रिच Buckner was the fact that there was nobody
22 else around, right?

23 A. Right.

24 Q. Did you find any evidence that indicated that there
25 was a person with Mr. Buckner or anybody, any witness to the

1 crime or anybody else on the scene, other than those two
2 individuals?

3 A. No.

4 Q. So, in your opinion, based upon what you personally
5 saw, based on your experience on the scene, this whole thing
6 happened very quickly?

7 A. Yes.

8 Q. And that's because there was no struggle?

9 A. A variety of things, as I've already articulated.

10 Q. Well, you said there was no struggle, isn't that --
11 according to what your interpretation of the scene, correct?

12 A. No indication to me that there had been a struggle
13 between Aidee and whoever at that point had killed her.

14 Q. And that's one of the reasons is because in
15 examination of the body, there were -- there was no other
16 trauma on the body; is that right?

17 A. At the scene, right.

18 Q. However, if you look at those photographs of Aidee
19 Reyna after her death --

20 MS. SCARDINO: If I may, are they -- I guess they're
21 here.

22 May I have just one moment, your Honor?

23 THE COURT: Okay.

24 Q. (By Ms. Scardino) Isn't -- the question that I was
25 going to ask you, is when you got there, was there -- could you

1 tell whether any lividity had begun to occur?

2 A. I --

3 Q. Go ahead.

4 A. Well, no --

5 Q. Could you --

6 A. -- would be the -- direct answer. If you want me to
7 explain why I'm telling you no.

8 Q. Sure. I'd love to.

9 A. Well, I did not work the scene. So at the time that
10 the body would have been moved, or adjusted by the M.E.
11 investigators that came out, that would have been the
12 responsibility of the crime scene unit, and would have been the
13 responsibility of the sergeant that was working the scene. So
14 if there are any lividity there, which I'm sure there probably
15 was by the time I got there, I did not observe it myself,
16 because I wasn't working that aspect of the scene.

17 Q. And lividity, for the jury's sake, and I think it was
18 described earlier, is like a pooling of the blood depending on
19 the way the body is laying. Is that fair?

20 A. Correct. The blood goes to the lowest part of the
21 body.

22 Q. All right. Now, when you talk about that there was
23 no evidence of any trauma to the side, the left side of her
24 face, which is -- would be consistent -- I mean inconsistent
25 with the story that Mr. -- that Seित्रich told you, right?

1 A. Yes.

2 Q. Do you know how long it takes for a bruise to become
3 apparent?

4 A. I'm not a doctor. I don't have any idea.

5 Q. So you don't know that. But in your 30 years
6 experience or so, Officer Waters, have you not heard any
7 conversations or know or learned over the years that a bruise
8 takes some time to begin forming?

9 MS. FULLER: Objection, your Honor, that would call
10 for hearsay and speculation.

11 THE COURT: Overruled.

12 A. Can you ask that one more time.

13 Q. (By Ms. Scardino) If you know, have you -- I mean,
14 you've done many murder scenes, right?

15 A. Yes.

16 Q. And I'm sure that you have over the years also been a
17 -- an officer who's come to maybe domestic violence scenes or
18 aggravated assault scenes, something less than murder where
19 there has been violence of some kind to the body. And do you
20 not know how long it takes for a bruise to begin forming?

21 A. I have no idea. I can only tell you in my own
22 experience when I've been bruised, sometimes it takes 24 hours.

23 Q. Okay. And would it be fair to say that no trauma to
24 her cheek could also mean there was no splitting of the skin?
25 I mean, her skin had not split. There was no abrasion or

1 scratch mark on her face.

2 A. It could mean that, yes.

3 Q. So it's not 100 percent impossible that what he told
4 you is not true -- is true?

5 A. Kind of twisted me there.

6 Q. All right. What else did you learn from -- well, let
7 me back up just a moment. Did I understand you correctly to
8 say that you were not on the scene first, you were not one of
9 the first officers who responded?

10 A. That's correct.

11 Q. And how long was it before you got on the scene?

12 A. I received the phone call, I believe around
13 5:45 a.m., and arrived at the scene at around 7:30 a.m.

14 Q. So that would have been approximately two and a half
15 hours after the offense had been committed; is that correct?

16 A. Well, about an hour and a half. 5:45 is when I got
17 the call. I got there at 7:30. So about an hour and
18 45 minutes.

19 Q. Well, but you remember -- are you aware of the video
20 of the car, her car entering the apartment complex at about
21 4:30 -- 4:00 to 4:30 in the morning?

22 A. Yes.

23 Q. Okay. So -- it would be sometime -- she was on her
24 way within, as you testified, 25 feet of her front door. All
25 she had to do was drive in that apartment complex, park her car

1 and walk to the front door, right?

2 A. Yes.

3 Q. So you would agree with me that logically the offense
4 occurred somewhere between 4:00 and 4:30 in the morning? If
5 you believe -- assuming with me that there is a video, which
6 was played for the jury, the car entering the apartment
7 complex?

8 A. At the --

9 MS. FULLER: Objection, your Honor, that assumes
10 evidence not entered into evidence.

11 THE COURT: So your objection is?

12 MS. FULLER: Facts not in evidence.

13 THE COURT: That objection --

14 Q. (By Ms. Scardino) Well, hypothetically -- I'll
15 rephrase my question -- if she entered the apartment complex at
16 4:00 o'clock and maybe a few minutes, it would have only -- it
17 would have only taken her a very short time to park her car and
18 begin her walk up to her apartment.

19 A. I don't want to speculate.

20 MS. FULLER: Objection to speculation, your Honor.

21 Q. (By Ms. Scardino) You don't want to speculate with
22 me?

23 A. I don't want to speculate on how long it takes
24 someone to get from their car to their front door. I don't
25 know what Aidee's habits were.

1 Q. Let's talk about Kendrick for a moment. Who is
2 Kendrick? His last name's Baldwin, right?

3 A. Kendrick Baldwin.

4 Q. And is he the biological son of Shajuana Pope?

5 A. That is my understanding.

6 Q. And you also interviewed Shajuana Pope, did you not?

7 A. I did.

8 Q. At any time did you talk to any of Seitrich Buckner's
9 family?

10 A. No, I don't recall speaking to any of those folks.

11 Q. Do you know whether any other officer talked to any
12 of Seitrich Buckner's family?

13 A. I'm not aware of it. I don't recall that.

14 Q. Did you run any criminal history checks on Shajuana
15 Pope?

16 A. Yes.

17 Q. And did you find whether she had been convicted --

18 MS. FULLER: Objection to relevance, your Honor.

19 THE COURT: Sustained.

20 Q. (By Ms. Scardino) When you were talking with Shajuana
21 Pope, did she tell you that she took in young men in her home?

22 MS. FULLER: Objection to hearsay and relevance at
23 this point.

24 THE COURT: Sustained.

25 Q. (By Ms. Scardino) Did she tell you how many people

1 were living in her home?

2 MS. FULLER: Objection to hearsay, your Honor.

3 MS. SCARDINO: That's a yes or no answer, your Honor.
4 I'm not asking him what.

5 THE COURT: That's sustained -- no, you're right.
6 You may ask that question and you may answer.

7 A. Can you ask it again.

8 Q. (By Ms. Scardino) Yes.

9 Did she tell you how many people lived in her home?

10 A. I don't remember a specific number, but I believe she
11 did share that she had several people living there.

12 MS. FULLER: Objection, your Honor, it was a yes or
13 no question.

14 THE COURT: You-all are killing me.

15 If you'll try to answer as succinctly as possible
16 just the question she is asking.

17 THE WITNESS: Yes, ma'am.

18 Q. (By Ms. Scardino) And the conversation that Seित्रिच
19 Buckner had with Kendrick, as you stated on your -- in your
20 statement, four-hour statement that we heard day before
21 yesterday, you told the jury this morning that he was
22 talking -- he was talking to somebody like a brother, right?

23 A. Yes.

24 Q. And you believed him when he told you that he and
25 Kendrick were close, close friends like a brother?

1 A. Yes.

2 Q. And that when you were telling the jury just a few
3 minutes ago about all the body language that you read from --
4 from Seित्रich Buckner based on all of your massive experience,
5 that it told you that he felt badly and that he had -- that he
6 was ready to tell somebody, he wanted to talk, he was going to
7 give you the information you wanted before you-all -- you
8 terminated the interview; is that right?

9 A. Yes.

10 Q. Now, let's go to that statement. Did Shajuana -- did
11 you ever learn who the number -- well, did you ever learn who
12 had the PIN number -- PIN number to that credit card that was
13 used on that -- on June 19th?

14 A. Yes.

15 Q. 19th.

16 And who had the PIN number?

17 MS. FULLER: Objection. That would be hearsay, your
18 Honor.

19 THE COURT: Overruled.

20 Q. (By Ms. Scardino) Was there a telephone call -- well,
21 who had the PIN number?

22 A. The defendant.

23 Q. And who else had the PIN number?

24 A. Shajuana Pope.

25 Q. Now, how did Shajuana, if you know, how did Shajuana

1 Pope get that PIN number?

2 MS. FULLER: Objection, your Honor, that would call
3 for hearsay.

4 THE COURT: Sustained.

5 MS. SCARDINO: I believe he's already testified to
6 that at one point, your Honor.

7 All right. Maybe it was a misstatement. I get those
8 two confused.

9 THE COURT: I will sustain your objection.

10 Q. (By Ms. Scardino) Do you remember on the -- during --
11 were you aware that Tierra Davis had gone into the -- a Walmart
12 store and used the credit card?

13 A. Yes.

14 Q. And did you know, or did you see that Walmart
15 surveillance video with Tierra Davis in it using the -- excuse
16 me -- using the credit card?

17 A. Yes.

18 Q. And did you see that she was on the telephone most of
19 the -- while she was trying to make the card work?

20 A. Yes.

21 Q. And do you know, did you ask her, were you even
22 interested as to who in the heck she was talking to while she's
23 trying to use a stolen credit cart at a Walmart?

24 A. I think my answer is yes, if I understand your
25 question.

1 Q. Well, I'll rephrase it. Were you interested in
2 knowing who she was talking to --

3 A. Yes.

4 Q. -- on the phone?

5 Did you learn who she was talking to?

6 MS. FULLER: Objection, your Honor.

7 Q. (By Ms. Scardino) Yes or no.

8 MS. FULLER: That would call for speculation.

9 MS. SCARDINO: A yes or no answer is not hearsay.

10 THE COURT: Your objection is overruled.

11 You-all don't talk over each other. And just state
12 your objection as succinctly as possible. I appreciate it.

13 Q. (By Ms. Scardino) Did you learn who she was talking
14 to on the phone while she's trying to use the credit card?

15 A. Yes.

16 Q. And who was that?

17 MS. FULLER: Objection, hearsay.

18 THE COURT: Sustained.

19 Q. (By Ms. Scardino) Did you talk to Shajuana Pope about
20 her having a conversation with Tierra?

21 A. Yes.

22 Q. Did you learn -- you told me that Shajuana Pope had
23 that PIN number, correct?

24 A. Yes.

25 Q. So after Tierra's conversation with Shajuana Pope,

1 she was able to use the credit card, was she not?

2 MS. FULLER: Objection, your Honor, that assumes
3 facts not in evidence.

4 THE COURT: That's overruled.

5 A. Can you ask it one more time.

6 Q. (By Ms. Scardino) Come on, Officer.

7 A. Well, getting between the two of you-all here.

8 Q. Was she able, was Tierra Davis able to use that
9 credit card after she had that phone conversation with Shajuana
10 Pope?

11 A. Yes.

12 Q. So, what did that tell you? Put those two together.
13 Does that tell you anything, that maybe Shajuana Pope was --
14 knew what was going on?

15 MS. FULLER: Objection, relevance, your Honor.

16 MS. SCARDINO: It's not relevant -- excuse me -- it's
17 not irrelevant, your Honor. This has to do with the motive,
18 with the intent, with everything else that's going on which I'd
19 like to try to develop with this officer.

20 THE COURT: I appreciate your desire to develop it.

21 I'll sustain your objection.

22 Q. (By Ms. Scardino) Who else -- are you aware of any
23 other connection that Shajuana might have had with this credit
24 card other than -- and the PIN number?

25 A. No.

1 Q. And Shajuana Pope never entered into any of those
2 Walmart stores, did she?

3 A. No.

4 Q. But she was the driver of Seitrich Buckner when he
5 went to the first place, the RaceTrac --

6 A. Yes.

7 Q. -- gas station, correct?

8 A. No.

9 Q. Okay. Where was it? I'm sorry.

10 A. The first indication that I had that Shajuana Pope
11 was driving the defendant around was the Walmart, the first
12 Walmart, the black Pontiac.

13 Q. Right.

14 A. And -- when the defendant gets out of the car.

15 Q. But she didn't get out of the car and she didn't go
16 into any store, right?

17 A. No.

18 Q. Now, when you found State's Exhibits 94, 95, and 96,
19 photographs of the kitchen and the box and the clip and the
20 bullets, where -- whose apartment was that?

21 A. That was Kendrick Baldwin's apartment.

22 Q. And Kendrick is Shajuana Pope's son, right?

23 A. Correct.

24 Q. And did he live there with anyone else?

25 A. Yes.

1 Q. Who was it?

2 A. I believe many of his five children were there, if I
3 recollect.

4 Q. Some or -- did you say many of his five?

5 A. Well, you know, he had five kids. I think most of
6 them were there. I just recall walking into the apartment and
7 there were several bodies asleep on the floor, so there were
8 other people there, yes.

9 Q. Several bodies were asleep on the floor? Were they
10 little bodies?

11 A. Little people, little people, asleep on the floor.

12 Q. All right. Now, another thing that we covered within
13 that four-hour statement that we listened to was the use of the
14 credit card to make a porn purchase of some kind off the
15 computer, internet, right?

16 A. Correct.

17 Q. And I believe you told the jury that Seित्रich Buckner
18 was not the person that did that; is that right?

19 A. That's correct.

20 Q. And who was it?

21 A. We believe that it was an uncle, Don Williams I
22 believe was his name, and he had since viewed his porn sites
23 and gone back to Dallas or someplace.

24 Q. Wasn't he one of those people that was in the Walmart
25 surveillance video?

1 A. In the second Walmart, yes.

2 Q. And he -- and using the credit card, or with people
3 who were using the credit card, right?

4 A. That's correct.

5 Q. And is he the person who Seitrich Buckner told you
6 that he told him to buy some clothes for one of his kids?

7 A. I believe the defendant did say that, did mention
8 that.

9 Q. So everybody who went in that Walmart store was there
10 to buy panties or kids clothes or potato chips or something,
11 right?

12 A. It would appear so, yes.

13 Q. Now, you indicated -- hang on. I forgot one
14 more question on that clip and the bullets.

15 A. Yes, ma'am.

16 Q. The box, you indicated that -- you said indicated
17 that it was -- they were bullets for a Glock, correct?

18 A. Not the ammunition.

19 Q. The -- I'm sorry, you're right, the magazine, the
20 clip, the magazine?

21 A. The magazine, yes.

22 Q. And the bullets, what did the -- what was your --
23 what did you learn from looking at that box of bullets?

24 A. That they were the same caliber as the piece of
25 ammunition that had been used to kill Aidee.

1 Q. Same caliber. But you're not saying it was out of
2 the same box or one of those bullets that came out of that box
3 that fit some gun that killed Aidee Reyna, are you?

4 A. I think no is my answer, but --

5 Q. I'll take no.

6 A. Okay.

7 Q. All right. Let's go to -- let's go to the statement.
8 You told the jury that your -- the position that you decided to
9 take with this individual was as a father figure, correct?

10 A. That's correct.

11 Q. And you were trying to instill trust in him with you,
12 right?

13 A. Yes.

14 Q. You were trying to get Seित्रich Buckner to trust what
15 you were saying to him?

16 A. Trying to get him to trust me.

17 Q. Okay. And in trusting you he would believe that what
18 you said was true, right? That it would be in his best
19 interests to tell everything he knew about the death of Aidee
20 Reyna?

21 A. Yes.

22 Q. And in doing that you kept using a phrase over and
23 over, accidental and unintended consequences. What does, to
24 you, what does unintended consequences mean?

25 A. A person would seek to commit an act of some kind

1 believing that the outcome was going to be something else, and
2 then the outcome becomes something that was unintended, that
3 they didn't mean to happen.

4 Q. And do you -- is that what you said all throughout
5 this statement to Seित्रिच Buckner?

6 A. Yes.

7 Q. And is that your -- after you talked to -- or -- how
8 did you learn what Kendrick Baldwin said? How did you know
9 what his statement was? Did you -- did you watch the video?

10 A. I watched the video and heard the statement that was
11 taken from Sergeant Roberts.

12 Q. Okay. And then you said you later talked to Kendrick
13 yourself or not?

14 A. I had spoken to Kendrick a couple of times, yes.

15 Q. Did you talk to him about what Seित्रिच Buckner told
16 him?

17 A. I did not specifically, no.

18 Q. Okay. But was it your opinion that what Kendrick
19 told the officer was one of those unintended consequences like
20 you just described to the jury?

21 A. I believe that what Kendrick had expressed was what
22 the defendant had told him.

23 Q. Now, I wouldn't suggest that you believed Kendrick,
24 correct? I mean, I -- you don't -- you don't believe Kendrick,
25 you don't believe what he said?

1 A. No, I believe that what the defendant told him is
2 what Kendrick was sharing with us.

3 Q. Like as one brother to another, right?

4 A. Well, sure.

5 Q. So you don't believe what Seitrich said to Kendrick
6 was true; is that right?

7 A. That's correct.

8 Q. So, you think that it was intentional?

9 A. Absolutely.

10 Q. And even though, Officer, you know, at some point,
11 some of it kind of has to rub off. You told this young man
12 many many many times that it was an accident, it was unintended
13 consequences, it wasn't intentional, you didn't mean for Aidee
14 Reyna to die. You told him that, and let's just go through
15 some of the --

16 MS. SCARDINO: If I may approach the -- whatever,
17 Elmo?

18 THE COURT: You may approach the Elmo.

19 MS. SCARDINO: Thank you.

20 I forgot what you call it. What a weird name for a
21 piece of equipment.

22 Q. (By Ms. Scardino) All right. I think -- first of
23 all, let me ask you, you made some comment -- actually, on
24 Wednesday, about the reason why you think it took so long for
25 Seitrich Buckner to tell you that it happened the way Kendrick

1 said it did, and what -- do you remember what you said?

2 A. No.

3 Q. You -- you said that he could not accept that he had
4 actually done what he -- the result of what happened.

5 A. That's accurate.

6 Q. Or something along that.

7 A. That's accurate.

8 Q. And he didn't -- he couldn't say it. He couldn't say
9 that I did this, I'm the cause of this woman's being dead. Do
10 you believe that?

11 A. Well --

12 Q. I mean, you spent --

13 A. Can you ask me --

14 Q. You spent four hours in a room with him, and where he
15 made a statement to you like it's not in me to do this. Do you
16 remember that? That's on page 33.

17 A. I don't have the transcript, but I know that he made
18 several qualifying statements during the interview.

19 Q. Well, I'm going to show you on page 33 where he said
20 that. Right there.

21 MR. REISS: Judge, I'm sorry, may I approach the
22 witness to give him a transcript?

23 THE COURT: You may.

24 Q. (By Ms. Scardino) Where he says that's -- Seitrich
25 Buckner says, I really used the car, sir, but this murder, I

1 didn't do it. And you said, you did do it. And Seitrich
2 Buckner says, that's not in me. Now, what do you think he
3 meant by that?

4 A. I'm sorry, what page was that on?

5 Q. 33.

6 A. That would be a qualifying statement.

7 Q. In other words, a statement that might be good for
8 him that you don't believe because it's not good for you,
9 right?

10 A. No.

11 Q. All right. Let's look at page 38. And I've got
12 notes on the side of my page 38, so if you'll just look at page
13 38 about halfway down where you say on the right-hand side of
14 the page, it was an accident. That's what you told Kendrick.
15 You didn't intend for this to happen. That wasn't what you
16 wanted but this is what happened and we cannot change it. Do
17 you agree with that statement? It's your statement.

18 A. Well, in the context of the interview, yes.

19 Q. All right. And then on down toward page 38, you
20 say -- one, two, three, four, five lines from the bottom, you
21 say, and here's the image you want to portray. I wouldn't do
22 this. But you know what, it happened and you did it. Okay.

23 The point I'm making, Officer Waters -- did you find
24 it in there?

25 A. Yes, ma'am.

1 Q. All right. And was -- that Kendrick Buckner was not
2 believing that he actually could have had done it, he could not
3 believe that he could have committed this offense. So for four
4 hours he's stuck with this story. Does that make sense to you
5 at all?

6 MS. FULLER: Objection, your Honor, it's a compound
7 question and --

8 THE COURT: Sustained as to compound question.

9 Q. (By Ms. Scardino) Tell me again why you think, tell
10 the jury again why you think it took so long for him, on page
11 76, to finally say, "It happened the way I told Kendrick"?

12 A. I would have no idea why it took the defendant that
13 long to finally come to a point where he was able to talk about
14 what he had done to Aidee.

15 Q. Well, wouldn't it make sense to you that it was
16 because he just couldn't make himself say that he was
17 responsible for somebody's death?

18 MS. FULLER: Objection to speculation.

19 THE COURT: Overruled.

20 Q. (By Ms. Scardino) Doesn't that make sense to you?

21 A. I'm sorry, could you ask that question --

22 Q. Yeah. Doesn't it make sense to you that it was just
23 difficult, hard for him to come to the realization that he was
24 responsible for somebody's death in whatever manner, whether it
25 was reckless or intentional?

1 A. Yes.

2 Q. Now, if you go to a scene, a crime, and you intend to
3 do one act but you actually -- but knowing that this is what
4 I'm going to do, and it's an offense, like robbery, for
5 instance, but something else happens, that's another offense,
6 is it not?

7 A. Yes, ma'am.

8 Q. And what would that be?

9 A. In this particular case?

10 Q. Yes, sir.

11 A. The other offense would be capital murder.

12 Q. If you go to a scene and you do not intend for a
13 murder to occur, but you intend to commit another offense, what
14 is -- is there another crime for that?

15 A. That's --

16 Q. Is there another name of another offense for that
17 when you don't intend the consequence?

18 A. Yes.

19 Q. And what would that crime be?

20 A. In this particular case, felony murder.

21 Q. Felony murder?

22 A. Yes, ma'am.

23 Q. And can you tell the jury what felony murder means?

24 A. Well, there would be an unintentional consequence to
25 another crime that's being committed, and that someone is

1 killed while that offense is being committed.

2 Q. All right. And that would be like a lesser offense
3 than capital murder; is that right?

4 A. Yes, yes, ma'am, yes.

5 Q. Now, this intentional, unintentional reckless acts
6 that people do are what we call the mental state of the person
7 who did the act, right?

8 A. Yes.

9 Q. The mental state.

10 And it can be intentional, I went there, I hated this
11 bitch, I'm going to kill her, and I did it?

12 A. Yes.

13 Q. And that's -- that's obviously intentional, right?

14 A. Yes.

15 Q. And reckless is if you do something and you know that
16 it's dangerous, and you just do it anyway, but not intending
17 for a murder to occur, is felony -- something along those lines
18 is felony murder, right?

19 MS. FULLER: Objection, your Honor, that's a
20 misstatement of the law.

21 MS. SCARDINO: I'll read it correctly. Sorry, I was
22 trying to --

23 If you go to a scene where you're aware of but
24 consciously disregard a substantial but unjustifiable risk of a
25 result, is the definition of reckless, correct, out of the

1 Penal Code?

2 A. If you're reading it, yes, I'll trust that that's
3 correct.

4 Q. All right. And if you do an act in a reckless manner
5 that is felony murder?

6 A. It can be, yes.

7 Q. Now, let's go on to this -- I want to talk about the
8 number of times that you have used the term either
9 unintentional, accident, or unintended consequence. Let's
10 start with page 21. I'm just going to put this up here so you
11 can see about what I'm talking about. About in the middle of
12 the page. Where it starts on the end of the line, something
13 happened you didn't plan on happening, that wasn't what you
14 intended to do, but it happened.

15 Do you see it? It's on the -- right under where
16 Seित्रich Buckner says I'm telling, and then you start talking
17 again, fifth line down, at the end, something happened --

18 A. Yes.

19 Q. -- you didn't plan on happening, that wasn't what you
20 intended to do?

21 A. I see it, yes.

22 Q. All right. Let's go to page 25. About in the middle
23 of the page where you say, and then something didn't go right
24 and something happened that you had no intention of happening.
25 Do you see that?

1 A. Yes, ma'am.

2 Q. Did you say that?

3 A. Yes.

4 Q. 27. Well, I had noted 27 for two reasons. Down at
5 the bottom where Seitrich Buckner says, I can't even do nothing
6 like that, and he's saying that in response to -- see, right
7 above there, toward the bottom of the page where you say, do
8 you know why? Because you did do it. That's what you did,
9 Seitrich. That's what you did, Seitrich. And then Seitrich's
10 response is, I can't even do nothing like that. That's what
11 you did, Seitrich. I can't even do nothing like that. Do you
12 see that?

13 A. That qualifying statement, yes.

14 Q. That qualifying statement, yes.

15 A. Yes, ma'am.

16 Q. Because it's good for him and not good for you,
17 right?

18 A. No.

19 Q. Detective Waters says then, let me tell you what --
20 no, I believe you when you tell me you couldn't do it
21 intentionally. You made that statement, didn't you?

22 A. Yes.

23 Q. And then on the next page, on page 28, of the first
24 several line paragraph, Detective Waters at the, kind of at the
25 top where you start with, well, it may not be in you to do it

1 intentionally, and that's what you tell him, that's what you
2 tell Kendrick, that it was an accident, that you hit her in the
3 head and the gun went off. Now I'm telling you, son, that's
4 the result. That's an unintended consequence right there.

5 You made that statement, didn't you?

6 A. Yes.

7 Q. And you use that term later on at the end of the
8 page.

9 Page 29, toward the bottom of the page, Seitrich says
10 you got to understand, sir -- and by the way, he calls you sir
11 during this entire interview, does he not?

12 A. Yes.

13 Q. And he's very polite to you, isn't he?

14 A. Yes.

15 Q. You got to understand, sir, I ain't never been in
16 nothing like this. And you say, I know, and that's true,
17 that's true. Right?

18 A. Yes.

19 Q. And what does that's true mean, that he's never been
20 in anything like this before?

21 A. Yes.

22 Q. And so going on down to where you talk, you start
23 with we're back to these undeniable facts though, Seitrich,
24 this is what happened. This isn't what you intended to happen.
25 It's not what you intended to happen. And you made that

1 statement, didn't you?

2 A. Yes.

3 Q. All right. We'll speed all this up now. Let's go to
4 34, down at the bottom of the page where you're talking
5 about -- about one, two, three, four, five -- six lines from
6 the bottom, what this discussion's about is a young man taking
7 responsibility for something that he didn't intend to happen.
8 And I'll show you on the Elmo where that is. Right there. See
9 it toward the bottom?

10 A. Yes.

11 Q. Because I've got it underlined.

12 But it happened, and we can't wipe it away. We can't
13 change it.

14 And 35, I just want you to go through it real
15 quickly, 35 down toward the bottom where you say, this was an
16 unintended consequence. Do you see that?

17 A. Yes.

18 Q. Toward the bottom.

19 And then page 36 you use the same idea again, you
20 didn't want this to happen but it happened. Toward the bottom
21 of the page, the full -- several lines paragraph where you're
22 talking. You made that statement, didn't you?

23 A. Yes.

24 Q. Same thing on 37, toward the bottom, you see where I
25 say -- see where I say right there? That's what I'm referring.

1 Because if it was an accident, which is what you told Kendrick,
2 which I believe is probably the truth, I mean, son, listen, I
3 tell you, you can shake that head 'til it falls off your
4 freaking shoulders, it won't change the truth. But you told
5 Seitrich Buckner, which I believe is probably the truth. Now,
6 you don't have to say that, did you?

7 A. No, I didn't have to say that.

8 Q. All right. 38, page 38. Where it starts with, it
9 was an accident, that's what you told Kendrick. We might have
10 already done 38, but it's another -- another series of words
11 which basically indicate that you're trying to tell him that it
12 was an accident, you didn't intend for this to happen, this
13 wasn't what you wanted but this is what happened.

14 And the same thing on 39, it was an accident, I
15 didn't want it to happen, I didn't intend for this to happen,
16 or words that you were saying that Seitrich might say, toward
17 the middle of the page. Are you with me?

18 A. Yes, ma'am.

19 Q. Okay. And you said that, right?

20 A. Yes.

21 Q. And on page 41, where you -- you're talking to him,
22 and you say, just like you told Seitrich -- excuse me -- just
23 like you told Kendrick, you hit her in the head, the gun went
24 off, you didn't even know she was shot. And at one point you
25 ask him after he starts talking to you toward the end, you ask

1 him, you didn't even know that you shot her, did you? And he
2 says, huh-uh. Do you remember that?

3 A. Vaguely.

4 Q. More toward the end. I mean, it was during the time
5 you were talking to him after he said, it happened the way
6 Kendrick said it did. You don't recall that?

7 A. (Pause.)

8 Q. We'll get there. We'll get there. It's okay.

9 On page 42, at the very top, where you're talking,
10 all you did was go out to hit a lick with unintended
11 consequences, just like you told Kendrick. It's the same thing
12 over and over.

13 MS. FULLER: Objection, your Honor. Are there
14 questions?

15 Q. (By Ms. Scardino) Did you say that, Officer Waters?

16 A. Yes. You're talking about on 42?

17 Q. On 42.

18 A. We're referring to the --

19 Q. Referring to the part where --

20 A. The last --

21 Q. -- you hit a lick with unintended consequences.

22 A. Yes.

23 Q. And hit a lick is what, what does that mean?

24 A. Committing a crime.

25 Q. Okay.

1 Any crime, or is it one specific crime?

2 A. Well, it kind of varies depending on what
3 neighborhood you're in. It used to mean hitting a lick was
4 going to go out and commit a robbery. Now it's kind of taken
5 on a generic context where if you're going to hit a lick you're
6 going to go out and do something that you probably shouldn't be
7 doing.

8 Q. All right. Go over to page 44.

9 A. (Complies.)

10 Q. Page 44, where it's the line says, unless you're this
11 cold-blooded guy, but I don't believe you are, is now -- and
12 you go on and talk to him. But you were -- you're saying you
13 don't think he's a cold-blooded person. Do you -- you said
14 that, right?

15 A. I made that statement, yes.

16 Q. And on down in the same paragraph where you're
17 talking, it was an accident, you didn't mean to do it, do you
18 see that?

19 A. Yes.

20 Q. Six lines from the bottom of the long paragraph with
21 you talking?

22 A. Yes.

23 Q. And then on page 45, you make two statements on that
24 page, where it starts kind of in the middle of the -- you see
25 where my finger is, give you an idea of where, to -- to what

1 you told Kendrick is an unintended consequence. Not what you
2 planned, not what you wanted to do, because it's not something
3 you would do, but it happened. Right? Do you see that?

4 A. Yes.

5 Q. Is that a correct interpretation of that video
6 statement? Did you say that?

7 A. I said that, yes.

8 Q. And I know -- or most likely at the end of my
9 cross-examination of you, you're going to tell Ms. Fuller that
10 that's what you say but it's all a farce, correct, that you're
11 just playing father figure to this young man; is that right?

12 A. I would never use the term farce in an interview with
13 a capital murder suspect.

14 Q. Well, when -- when you're on the receiving end, you
15 would probably call it a farce, right?

16 MS. FULLER: Objection to argumentative, your Honor.

17 THE COURT: That's sustained.

18 Q. (By Ms. Scardino) Well, let's call it another word.
19 It's all a lie, isn't it? I mean, that's an untruth. Those
20 are all -- you're going to tell this prosecutor and this jury
21 that those are all untrue statements, that you didn't really
22 mean them, right?

23 A. No.

24 Q. Okay. Well, then tell me what they are. They are --
25 if you call 'em a -- a process to -- within which you get a

1 confession, or a statement from somebody, but you use lies in
2 order to do it, do you not?

3 A. Sometimes.

4 Q. Well, did you hear?

5 A. Use the term lie?

6 Q. Yeah.

7 A. I used the term lie several times.

8 Q. Did you lie, you, lie to this young man and tell him
9 all these things that you knew were -- that you believed were
10 not true?

11 A. No, not in the context of this interview.

12 Q. So you did not lie, is that what --

13 A. No.

14 Q. Okay.

15 Then on -- going on on page 45, at the bottom of the
16 page, where it says, so for you -- I'm doing it real quickly so
17 you can see where I am. So for you to sit here and say I
18 wouldn't do that, I believe you. I don't believe you would do
19 this intentionally. I do not believe you would walk up to
20 somebody -- and then at the top of page 46 -- stick a gun in
21 their face, cap them, steal their stuff and go. I do believe
22 that, I do believe that when you tell me that, but I also
23 believe you got yourself in a situation that went out of
24 control, unintended consequences. Your words. Just exactly
25 like you told Kendrick. That's what you said, right?

1 A. Yes.

2 Q. And you're not lying?

3 A. No, not based on what he told Kendrick.

4 Q. And you use the term on down in the middle of the
5 page, unintended consequences, didn't mean for it to happen,
6 didn't want it to happen, would have never planned for it to
7 happen, but it doesn't change the fact that it did happen.
8 That's a true statement, isn't it?

9 A. It's the statement that I made in the interview.

10 Q. Well, did you lie or didn't you lie, Officer Waters?

11 MS. FULLER: Objection to asked and answered, your
12 Honor.

13 THE COURT: Not to that question. That's overruled.

14 A. I'm not sure what you're asking that I lied about.

15 Q. (By Ms. Scardino) And the next page, 47, toward the
16 middle of the page, there's the top, and it's down in the
17 middle of the page, where you say you caused the accident and
18 you're going to be held responsible for it one way or the
19 other, is that a statement that you made?

20 A. Yes.

21 Q. Is that a true statement?

22 A. In the context of the theme, yes.

23 Q. Page 50, kind of in the middle of page 50 with you
24 talking more, down in the middle of the page where the line
25 starts, I'm going to be honest. I told you, Kendrick told us

1 what you told him. I came in here and I played you the tape,
2 so I've not lied to you. I didn't start out with a lie. I'm
3 not going to get in the middle of a lie. I ain't going to end
4 with a lie. All I have told you since we've been sitting here
5 is the truth. And you can't argue the truth away with a lie
6 and lie, and what you're trying to do. Did you believe what
7 you said then?

8 A. I said that.

9 Q. In that statement?

10 A. I said that in the course of the interview.

11 Q. And toward the bottom, kind of on down in the same
12 paragraph where Seitrich -- you say that, you meaning Seitrich,
13 keeps saying, I didn't do this, I would never do that. And
14 look, I believe you, but the fact of the matter is, you told
15 Kendrick you hit her in the head, it was an accident, the gun
16 went off, she fell to the ground unconscious. Did you say
17 that?

18 A. Yes.

19 Q. Page 54, toward -- right after the mark-out where it
20 says this is what happened. I'm sorry, I didn't want it to
21 happen, it was -- you're -- there's quotes around this so I'm
22 assuming that you're speaking for Seitrich, because actually it
23 would be better if I read -- but I really thought having never
24 laid eyes on you that we would come in this room and you would
25 tell me just like you told Kendrick. And then you go on to say

1 it was an accident, I hit her in the head, the gun went off,
2 she fell to the ground unconscious, I took her purse and I ran,
3 right? I mean, that's what -- that's what it says here, that
4 you're talking to Seitrich trying to convince him to say
5 something to you about this offense?

6 A. That is what I said, yes.

7 Q. And you're getting pretty frustrated at that point,
8 right? I mean, I'm kind of feeling that you're --

9 A. You talking about now or you talking about then?

10 Q. Well, I don't care about now, but I'm really caring
11 about then.

12 A. No, I don't -- I've been doing it long enough I don't
13 get frustrated in the interview room. I just get more
14 determined.

15 Q. Really?

16 A. Yes, ma'am.

17 Q. Well, the next page you got to the point where you're
18 calling him either a sociopath or a psychopath because he won't
19 talk to you and tell you what you want to hear. Do you see
20 that, page 55? Toward the bottom. So you're either a
21 sociopath and you just don't care or you're a psychopath and
22 you did it and it really doesn't matter to you.

23 MS. FULLER: Objection. Is there a question?

24 Q. (By Ms. Scardino) Did you say that?

25 MS. FULLER: She's testifying.

1 A. Yes.

2 Q. (By Ms. Scardino) And on 57, page 57 is where you
3 make the statement I work for God. Why do you make that, why
4 do you say that to individuals that you're interviewing? Why
5 would you say it to Seitrich Buckner?

6 A. I would say that to anyone.

7 Q. Anyone?

8 A. That I come across. I say it to this jury. I'd say
9 it to you, the prosecutor, the judge, anybody that I talk with
10 about the job that I do, and when I was a baby homicide cop --

11 MS. SCARDINO: Objection, your Honor, I think he's
12 answered the question.

13 Q. But in that sense, though, anybody who is religious
14 could say, I work for God. I'm a defense lawyer but I work for
15 God also.

16 A. You want me to answer that, or is that a question?

17 Q. Could I -- I could say that.

18 A. You can say --

19 Q. If I believe in God I can say I work for God.

20 A. You can certainly say whatever you wish.

21 Q. 65, and this is just a short one, but again, at that
22 part on the page, because it was an accident. And that's what
23 you said, didn't you?

24 A. Where?

25 Q. Page 65, toward the top, about ten lines down. Why

1 did this happen? And you told Kendrick the why, why it
2 happened.

3 A. Yes.

4 Q. Because it was an accident.

5 It's where you're trying to get him to talk for the
6 benefit of all the families, to tell the families what happened
7 and why, right?

8 A. Yes.

9 Q. And then on page 66, seems to me like you are getting
10 a little frustrated because down here toward the bottom where
11 it says, I just got to tell you, the first time in 26 years I'm
12 at a loss. I just don't know what the key is. I can't find
13 the key. Did you say that? What were you talking about?

14 A. Well, I think at this point we had been in the room
15 for -- I'm guessing three hours maybe.

16 Q. Yes.

17 A. The defendant continued to deny. That was his only
18 particular argument. I stuck with the theme that I went into
19 the room with, and he, for his own reasons, just was still
20 wanting to remain in denial. And at that point, I am
21 throughout the entire interview, but at that point in
22 particular, I'm trying to build him up to something better than
23 what he was at the moment that he committed this crime. So --

24 Q. What do you mean something better?

25 A. Something better than the person he was when he shot

1 Aidee. So trying to build him up, trying to get him confident
2 that he can tell me, he can trust me to tell me the truth about
3 what happened out there. And at this point, after having been
4 in the room for as long as we'd been in there, he was still,
5 what I was reading in the room, was just on the edge of wanting
6 to tell me but something was keeping him from going ahead and
7 let's talk about what he had told Kendrick.

8 And I simply expressed to him at that point that I
9 was at a loss as to why he wouldn't come forward now, and
10 let's -- as long as we've been talking about it, why won't you
11 just come out and say it.

12 Q. Well, let's go to page 70. About the middle of the
13 page, you again talking where you're saying one more time, you
14 told Kendrick it was an accident. You told him you hit her in
15 the head and the gun went off, that's what the evidence shows,
16 and so he -- you go on, for crying out loud, Seitrich, I mean,
17 it doesn't get any more simple than that. And you go on trying
18 to get him to talk to you.

19 The last two lines on page 70, a horrific mistake, an
20 unintended consequence, not something you planned to happen.
21 And the top of page 71, not something you wanted to happen, but
22 it happened nonetheless. And you explained it to Kendrick how
23 it happened, and now it is in your best interests to explain it
24 now. Did you say those words?

25 A. Yes.

1 Q. And then on down toward the bottom on page 71, on the
2 line, you're still talking, starts with should be, and I'm not
3 telling you this stuff because I'm trying to schmooze you. I'm
4 not telling you this stuff because I'm trying to, you know,
5 blow smoke over you. I'm sincere about this because I mean
6 this. I'm about as sincere with you as I can possibly be, and
7 I'm asking you to trust me that this is the right thing for you
8 to do. And then you go on with the example about your son.

9 So you're trying to -- you're getting a little --
10 trying to get a little emotional there, are you not?

11 A. Build him up.

12 Q. I'm sorry?

13 A. Building him up.

14 Q. Okay. A lie. Right?

15 A. I'm sorry?

16 Q. A lie, right?

17 A. No.

18 Q. And then on page 73, the last two lines of 73, you're
19 talking again. Why would you not explain it as an accident,
20 like you did with Kendrick, if it wasn't intentional, uh?
21 That's something that you also said, another -- using the term
22 this time of an accident, not unintended consequences, right?

23 A. Yes.

24 Q. And then on page 74, if you'll kind of get a look at
25 that page, at the top of it you're talking about only two

1 possibilities, here, it happened like you told Kendrick or it
2 was intentional, which one is it. So in this page are you
3 trying to get him to tell you the way it happened by telling
4 him you're either a -- a -- cold-blooded you know what, or you
5 did this unintentional -- with unintended consequences, right?

6 A. The short answer is yes.

7 Q. And then the magic occurs and all your efforts pay
8 off on page 76. If you'll look in the middle of page 76, where
9 Seitrich says, finally, he says it happened like I told
10 Kendrick, his brother, right?

11 A. I'm sorry?

12 Q. It happened like I told Kendrick, and Kendrick is
13 like his brother?

14 A. That's what he says.

15 Q. That's what he says. I understand that. But that's
16 there, and you heard that, right?

17 A. Yes, it happened like I told Kendrick.

18 Q. And then on down, toward the bottom on page 76 where
19 Seitrich now gets to talk a little bit, he decides he's going
20 to talk a little bit, and he says, at the bottom half of 76,
21 he's telling you what happened. He said he walked up to her
22 and asked for her purse, right? Correct? He walked up to her,
23 and using his terminology, he asked her for -- give me your
24 purse?

25 A. Just give me the purse, yes.

1 Q. And then toward the bottom he says, I said just give
2 me the purse. She reached out for me like no no, and then I
3 hit her with the pistol. It went off. I was like, I just ran.
4 I took her stuff and just ran. Right?

5 A. That's what I said.

6 Q. And you asked him did you know that you had hit her?
7 And he says, huh-uh, on top of page 77.

8 A. (No response.)

9 Q. And somewhere in here, and I don't have the page
10 number but I recall reading it. If you'd help me with this a
11 bit. Somewhere in his statement to you at the end where he's
12 telling you what happened, he says that he walks back to
13 Shajuana's apartment; is that right? Do you remember that?

14 A. Oh, I'd have to go back and look, but I think in the
15 general discussion that he does, he -- yes.

16 Q. Wasn't he living at Shajuana's apartment at the time
17 of this offense?

18 A. I don't recall that.

19 Q. And he walked back to Shajuana's apartment, which is
20 noted on that State's Exhibit -- that map that you talked about
21 earlier. And didn't he say that he gave her some money?

22 A. I'd have to go back and look.

23 Q. All right. Then we'll find it.

24 A. I just don't recall.

25 Q. On page 79, when he's talking to you and telling you

1 how he came across Aidee Reyna, that he saw her car and she was
2 walking right through the complex. Do you see that right
3 toward the top?

4 A. Yes.

5 Q. On then on down where Seitrich says -- well, you ask
6 -- you ask Seitrich, did she - did she ever say anything to
7 you? And Seitrich says she was like no no, and that's when she
8 tried to grab me. She tried to grab me. That's a question
9 mark, that's what you asked him. And Seitrich Buckner's
10 comment is no, she grabbed me. Grabbed you? Yeah. Okay. And
11 that's when I hit her. I didn't know it was going to go off
12 but I hit her, like, on the left side of her face. And that's
13 what he told you, correct?

14 A. Yes.

15 Q. Okay. On page 82, now, he's told you in this
16 statement that he walked to Shajuana's apartment and got her
17 car -- or got the keys to -- excuse me -- he walked to
18 Shajuana's apartment, and you-all are having a conversation
19 about how did you get the keys to Shajuana's car?

20 A. On --

21 Q. I'm sorry, page 81.

22 A. Oh, okay.

23 Q. At the top.

24 A. Yes.

25 Q. So going on down -- a few lines where you say, and

1 she let you have them, meaning the keys to her car, and what'd
2 you tell her? And Seitrich says, I just came back, gave her
3 some money, and kept on -- and it -- he didn't -- I think you
4 interrupted him, but that's what Seitrich said. Do you see
5 that part?

6 A. Well, you skipped two or three lines, so I'm -- you
7 went from --

8 Q. Well, I didn't think it was that important. Where
9 you said, how did you get the keys to Shajuana's car? He said
10 I lied to her. You went in and asked her for the keys? Yeah.

11 A. Right.

12 Q. And she let you have them. And what'd you tell her?
13 And he said, I just came back, gave her some money, kept on --
14 and then that was the end of that sentence. Do you see that
15 part?

16 A. Right, yes, uh-huh.

17 Q. So he did tell you that he gave Shajuana money?

18 A. Yes.

19 Q. And that would be money that he got from the ATM
20 machine at that RaceTrac place; is that correct?

21 A. I don't know.

22 Q. You don't know?

23 A. I don't know.

24 Q. Okay. But it says here that he gave her some money?

25 A. Yes.

1 Q. And on page 84, you're asking him questions about the
2 gun, page 84, and he tells you down toward the -- about one,
3 two, three -- four or five lines from the bottom, that this was
4 the first and only time that he had used that gun; is that
5 correct?

6 A. Yes.

7 Q. On page 85, Officer Waters, toward the very middle of
8 the page where Seित्रich -- you're wrapping it up. You've got
9 his statement. You're asking him if -- later on you're asking
10 him about does he want water or go to the bathroom, and
11 Seित्रich Buckner says -- you're saying is there anything else
12 that you want to say, anything that you want to tell me, and
13 Seित्रich Buckner says, that's it. I apologize for wasting your
14 time. He said that to you, didn't he?

15 A. Yes, he did.

16 Q. Did he seem like he was angry or mad at you or
17 anything?

18 A. No. He was apologizing to me.

19 Q. And you go on on page 78, actually after he starts
20 talking to you, where you're telling him you're proud of him?

21 A. That's correct.

22 Q. For -- being truthful with you, basically?

23 A. For finally stating his case, yes.

24 MS. SCARDINO: Pass the witness.

25 THE COURT: Redirect?

1 MS. FULLER: Yes, your Honor, briefly.

2 REDIRECT EXAMINATION

3 BY MS. FULLER:

4 Q. Throughout all the pages that Ms. Scardino just went
5 through, were any of those statements about an accidental or
6 unintended consequences coming from the defendant's mouth?

7 A. No.

8 Q. In fact, that entire time, that entire period of time
9 does he ever tell you it was an accident?

10 A. Not before the actual confession, no.

11 Q. Okay. And then drawing your attention to page 76,
12 and continuing on through the end of the interview, and it
13 might take you a moment to flip through there, but does he ever
14 tell you it was an accident?

15 A. I don't recollect he ever used that word.

16 Q. Does he ever use the words unintended consequence?

17 A. No, he does not.

18 Q. If you look at page 76, when he starts talking, and
19 he says it happens like I told Kendrick, is that the closest he
20 gets to ever stating what happened in terms of it being an
21 accident?

22 A. Yes.

23 Q. So tell us why for almost four hours of an interview
24 you keep using the words accident and unintended consequences?

25 A. As I started out in testimony today, when we start

1 going into an interview we have an approach and I have a theme.
2 In this particular interview, the theme was we all make
3 mistakes, accidents happen, there are unintended consequences.
4 That was based primarily on what he had told Kendrick Baldwin.

5 So I knew that he had already expressed some version
6 of this thing to his friend that he called the brother, and
7 that that was the theme I was going to have to establish
8 throughout this interview, and in doing that, I have to build
9 him up, I have to get him to trust me, and I have to make him
10 realize that what he needs to talk about is what happened out
11 there, and the only person that can tell is him.

12 Q. And even after you're adopting the themes that he's
13 already put out there by telling Kendrick, for -- looking at
14 the transcript, up to 76 pages, does he ever adopt or affirm
15 accident unintended consequences with you?

16 A. No.

17 Q. Officer, is walking up to somebody with a loaded gun
18 and putting it in their face an intentional act?

19 A. Yes.

20 Q. Is walking up to somebody, putting a gun in their
21 face and demanding their purse an intentional act?

22 A. Yes.

23 Q. Is walking up to a person with your finger on the
24 trigger and the gun discharging while you're asking for
25 somebody's purse an intentional act?

1 A. Yes.

2 Q. And using somebody's property that you've obtained
3 after doing so, is that an intentional act?

4 A. Yes.

5 Q. Is loading a firearm an intentional act?

6 A. Yes.

7 MS. FULLER: Pass the witness, your Honor.

8 THE COURT: Any recross, Ms. Scardino?

9 RECROSS-EXAMINATION

10 BY MS. SCARDINO:

11 Q. The way that you described it when Ms. Fuller was
12 asking you questions about walking up to the person, gun in the
13 face and all that, you don't -- you say yes, all those things
14 are intentional acts, but you weren't there, you don't know
15 exactly what happened to get that bullet hole in Aidee Reyna's
16 throat, do you? I mean, you don't know what happened ten
17 seconds prior to that, five seconds prior to that, or a minute
18 later, correct? You have no knowledge?

19 A. I can't answer that question yes or no, because I --

20 Q. Well, you can answer it no because you weren't there,
21 were you, Officer?

22 MS. FULLER: Objection, argumentative.

23 THE COURT: That's sustained.

24 Q. (By Ms. Scardino) You weren't there, were you?

25 A. No. At the time of the killing? No.

1 Q. At the time of the shooting, correct, you weren't
2 there, you don't know what happened, exactly what happened ten
3 seconds prior. You know that there is a bullet hole in this
4 young woman's throat, with stippling around it, indicating that
5 the gun was close to her throat. You don't even really know
6 how close it was, do you?

7 A. Oh, no, I do know how close it was, based on the
8 charring of the contact wound. There's more there than
9 stippling. If it was mere stippling it would have been fired a
10 certain degree away from her.

11 Q. All right.

12 A. But that weapon was placed in her throat and fired.
13 That results in the charring of the skin --

14 Q. But --

15 A. -- and a contact wound.

16 Q. But what I'm -- the point I'm trying to make with
17 you, Officer Waters, is speculation is one thing, but it really
18 is just speculation as to how the gun managed to get on her
19 throat. It could be that somebody walked up to the young
20 woman, stuck a gun in her throat and pulled the trigger. That
21 could be one way it happened, correct?

22 A. That is the way it happened.

23 Q. Well, how do you know that?

24 A. Because of the evidence at the scene.

25 Q. Well, tell me the evidence at the scene --

1 A. And what your defendant and what the defendant told
2 me --

3 Q. Tell me --

4 A. -- in this particular interview.

5 THE COURT: Hold on. We're going to ask questions --

6 Q. (By Ms. Scardino) Tell me --

7 THE COURT: -- one --

8 Q. (By Ms. Scardino) -- the evidence at the scene that
9 tells you and this jury exactly what happened ten seconds prior
10 to that gun going off, other than the gun is close to her neck
11 or on her neck. You don't know how it got there, do you?

12 A. Yes.

13 Q. It's at the other end of his hand. We understand
14 that. That's simple. I'm asking you, you're telling this
15 jury -- you have a story to tell, about how it got -- how he
16 shot her, and you don't know that story, do you?

17 A. That is not correct.

18 Q. You don't -- how do you know that story, Officer?
19 Tell me, how did you get that information when you weren't
20 there?

21 A. Because I conducted the investigation. I talked to
22 these folks. I talked to the family. I made the scene.

23 Q. Hang on.

24 A. I talked to the defendant.

25 Q. Officer, stop.

1 THE COURT: Let the officer finish his answer.

2 A. I spoke with the --

3 MS. SCARDINO: Well, then I have an objection because
4 that's not a response to my question.

5 THE COURT: That objection is overruled. The officer
6 may finish his answer.

7 A. I spoke to the defendant. He confessed to doing what
8 he did. I don't think there is any question, at least not in
9 my mind as an investigator, having been a police officer for 29
10 years and a homicide detective for almost 19, that I don't have
11 every piece of this puzzle in place. And I know exactly what
12 happened out there that morning.

13 Q. (By Ms. Scardino) Well, what do you do when you have
14 a conflicting story? Tell me the evidence that proves that it
15 did not happen the way Seित्रिच Buckner told Kendrick. Tell me
16 the evidence that you got that disproves that story.

17 A. If you look at the scene, once again.

18 Q. Well, we've seen the scene.

19 A. No sign --

20 Q. And we've seen the pictures.

21 Go ahead. If you'd answer my question, please.

22 THE COURT: Don't argue with the witness.

23 MS. SCARDINO: Sorry.

24 A. Can you ask the question one more time? I've
25 forgotten what it was.

1 Q. (By Ms. Scardino) You never make Ms. Fuller ask the
2 question.

3 Yes. Tell me what information, or tell the jury what
4 information you have that disproves 100 -- beyond a reasonable
5 doubt, disproves what Seitrich -- how Seitrich says the
6 incident occurred.

7 A. I've already talked about the evidence at the scene
8 and what I saw when I got there. We've already talked about
9 the autopsy, that there were no signs of any kind of a trauma
10 other than this contact wound to the throat.

11 Now, I will fast-forward past all the investigative
12 procedure that I conducted that we've already talked about and
13 go to the interview and the last part with the defendant. He
14 demonstrates for me in the room how he struck Aidee.

15 Q. Well, I'm --

16 A. And --

17 Q. Wait. I don't recall that being on the video.

18 MS. FULLER: Objection, your Honor.

19 THE COURT: Yeah, that -- the jury is going to recall
20 what you saw in the video room.

21 Ask your next question.

22 MS. SCARDINO: Well, and I would also object to him
23 if he's going -- please instruct the witness I didn't ask a
24 question about any demonstration and I would ask that that not
25 be -- I don't know anything about that. That would not be

1 responsive to my question.

2 THE COURT: All right. And I'm going to overrule
3 your nonresponsive objection.

4 But would you ask another question.

5 THE WITNESS: What do you want me to do now? You
6 want me to finish the answer?

7 THE COURT: Wait until you answer the next question.

8 THE WITNESS: Okay.

9 Q. (By Ms. Scardino) My question initially was, tell the
10 jury and me the evidence that you have that would totally
11 disprove the way it happened the way Seitrich said it happened.

12 A. Okay. I was trying to answer that question and I
13 will finish. The demonstration that the defendant gave me in
14 the interview at the end of the interview after he'd already
15 talked about what he had done.

16 MS. SCARDINO: Well, I'm going to -- that would be
17 like a statement, another statement that he made that I don't
18 know anything about.

19 THE COURT: All right. I want a single word
20 objection from both lawyers. That's overruled.

21 You may answer.

22 THE WITNESS: Thank you, ma'am.

23 A. I asked him if he was right-handed or left-handed. I
24 asked him to demonstrate what he had done with the weapon. And
25 he makes a motion. Now, that's a demonstration.

1 He is sticking with the story that he somehow with
2 his right hand, with the pistol in his right hand struck Aidee
3 on the left side of her head or her face, and that's what
4 happened when the weapon went off. The problem is, with that
5 particular version of the story, is that the contact wound is
6 on the right side of her throat. It is inconsistent with his
7 demonstration and his explanation as to how this weapon goes
8 off accidentally and the wound ends up here. And this is a
9 contact wound, this is a pushing into the throat and firing the
10 weapon.

11 So, can I tell you exactly what happened five seconds
12 before? Yes, I can. Because what he's telling me and what is
13 there is inconsistent. He walked up to her.

14 THE COURT: All right. That's enough, Officer. Ask
15 your next question.

16 THE WITNESS: Yes, ma'am.

17 MS. SCARDINO: May we approach the bench, your Honor?

18 THE COURT: You may.

19 (The following proceedings were had at the bench:)

20 MS. SCARDINO: Would you consider breaking for lunch?
21 I got to think about this.

22 THE COURT: I was really hoping to finish with this
23 officer. If the lunch is here we'll break, but I don't think
24 the lunch is here. We just checked. Give me a second.

25 (Pause.)

1 MS. SCARDINO: Are they going to eat here?

2 THE COURT: Yeah, they're going to eat in.

3 You-all are killing me. Will you behave yourself?

4 MS. SCARDINO: Yes, I will. I'm sorry.

5 (The following proceedings were had in open court:)

6 THE COURT: All right. Jurors, we're going to take a
7 break for lunch. And you are going to eat in today. We'll try
8 to get you out here as quickly as we can, but it looks like it
9 will be about 1:00 o'clock.

10 (Jury out.)

11 THE COURT: Just real quick, now that the jury is
12 out, Mr. Buckner, I wanted to apologize to you also about
13 yesterday. Sorry about that.

14 THE DEFENDANT: Yes, ma'am.

15 (Lunch recess.)

16 (Open court, defendant present.)

17 MR. REISS: Judge, before we start back up I need to
18 get something on the record.

19 THE COURT: All right.

20 MR. REISS: Permission to approach the bench?

21 THE COURT: Sure.

22 MR. REISS: Your Honor, I'm tendering to you and the
23 Court and I'm tendering to Defense counsel copies of
24 three-cases, King V State, K-i-n-g V State, 29 S.W.3d 556, and
25 I'm tabbing it to the relevant page. Conner, C-o-n -- and

1 that's a Texas Court of Criminal Appeals case out of 2000.
2 Conner, C-o-n-n-e-r V State, 57 SW3d 192, Court of Criminal
3 Appeals 2001, and Banda, B-a-n-d-a V State, 890 SW2d page 42.
4 These are all Court of Criminal Appeals cases dealing with the
5 issue of the admissibility and relevance of tattoos dealing
6 with the matter of intent.

7 You will recall Ms. Scardino's last question to this
8 witness was, in essence, what factors were there that led him
9 to the determination that shooting Aidee Reyna was an
10 intentional act rather than an accident, essentially the
11 difference between capital murder and felony murder.

12 Your Honor will also recall yesterday that I put on
13 the record that there were certain photographs that we had of
14 the defendant. Now, it is not my purpose to admit the
15 photograph of what appears on Mr. Buckner's arm, for I would
16 anticipate Ms. Scardino's objection would be that that
17 photograph contains some other prejudicial and irrelevant
18 material, and I will concur in this regard.

19 However, in the transcript that your Honor has, and
20 specifically I will call your attention to page 83 -- and I'm
21 sorry, Ms. Scardino, I forgot to give you copies.

22 MS. SCARDINO: Page 83 of --

23 MR. REISS: Page 83 of the transcript, the following
24 transpires. We're keying it up right now to the relevant
25 portion of the audio -- of the tape.

1 Detective Waters asks, okay, that's fair. Did -- how
2 did you know? I mean, how did people know you were looking for
3 a gun? Did you put it out there? Why would they send you a
4 text message about a gun?

5 Answer: I mean, I guess 'cause of this.

6 Now, it's not evident from the transcript, and it's
7 very subtle on the video, but he makes a sweeping motion -- not
8 sweeping, but he makes a motion with his left hand on his right
9 hand to his right arm. And his answer is, when Detective
10 Waters asks what is that, Mr. Buckner says, it's my nickname,
11 and, like, bullets.

12 Now, you can't tell on the video exactly what he's
13 talking about, all right. But the State would submit that this
14 officer's answer to her question would include that one of the
15 factors that leads to his determination that it was an
16 intentional act is that on his right arm is a tattoo of the
17 word Dre, D-r-e, which he says is his nickname, and it is
18 spelled out in bullets.

19 Now, the cases I've tendered to the Court all go
20 directly to that. The first case I gave you, the --

21 THE COURT: Banda.

22 MR. REISS: No, not the Banda case. I think it was
23 the --

24 MS. SCARDINO: King.

25 MR. REISS: The King case. The King case, your Honor

1 will recall, that was the -- that was Mr. Byrd, Jasper County
2 case. One of the issues in that case is during guilt-innocence
3 they showed tattoos of the fact that he was a White
4 Supremacist, and the fact that he was a White Supremacist,
5 those tattoos led to his intent as to why he killed an
6 African-American.

7 So I believe by her question, Ms. Scardino has opened
8 the door to the admissibility of the fact that Mr. Buckner has
9 on his arm a tattoo of his nickname with bullets.

10 MS. SCARDINO: And what did I ask?

11 MR. REISS: The question was, as I recall, what
12 factors --

13 MS. SCARDINO: Oh.

14 MR. REISS: -- lead to your determination that this
15 was an intentional act.

16 Now, admittedly it was not in this officer's offense
17 report, and I fully anticipate that having done this Ms.
18 Scardino is going to bring that up, that if this was so
19 important, how come you didn't put it in your offense report.

20 Be that as it may, I believe the door has been opened
21 to that testimony, and it clearly is relevant not only to
22 answering the question but as to this defendant's mens rea.
23 And that first case, the King case, goes directly to that.

24 And this officer did not answer the question in
25 reference -- I believe he would testify or tell the Court, the

1 reason he did not mention the tattoo as part of his answer to
2 Ms. Scardino's question was that this witness and I spoke
3 yesterday afternoon, after I put on the record the photographs
4 of the tattoos, and I specifically told this witness not to
5 mention the tattoos because it might be more prejudicial than
6 it is probative, and that we had agreed to approach if the
7 topic came up.

8 MS. SCARDINO: And what witness is that?

9 MR. REISS: This witness.

10 MS. SCARDINO: Oh, the officer.

11 MR. REISS: By this witness, for the record, I'm
12 talking about the witness who's on the witness stand right now.

13 MS. SCARDINO: Well, may I respond just a short -- I
14 know the Court's going to read the cases and all that, but I
15 find it absolutely astonishing that we can even remotely
16 compare this case to Jasper, and King versus State.

17 There has been no mention of tattoos. It's not like
18 he's sitting over in the jail, you know, in a onesy where
19 nobody can see him. This has been -- he's been over there now
20 for what, going on three years, and at the last minute, new to
21 me, I get shown these photos that they call over to the jail
22 and have somebody in the gang task force or whatever they call
23 it over at the jail to go take photographs of him.

24 First of all, they didn't tell me. Nobody asked --
25 told me that they were going over there to do that. Nobody

1 asked me anything about whether or not he might have some
2 objection.

3 He is -- this is -- in my opinion, and I don't have
4 any cases to say that, because I didn't know we were going to
5 do this today, but this is like a statement. I mean, I think
6 tattoos are statements. The one that he's got on him that --
7 that Mr. Reiss mentioned is his nickname, DRE, and it is
8 outlined in bullets. That is a far cry from any kind of gang
9 affiliation.

10 Gangs have not been mentioned anywhere in this
11 offense report, in the facts of this case. This is a simple
12 robbery-murder, and that's what it is. It has nothing to do
13 with tattoos or gangs. And the only thing they're doing is
14 they want to make sure the jury has enough bad evidence and be
15 biased enough to convict him of, this young man of capital
16 murder and make sure that he goes to prison for the rest of his
17 life.

18 I'm offended in what they did and I think it was
19 wrong and I think it was unethical of what you did about the
20 tattoo incident. This is new to me, and new to everybody else
21 in this case, because I just got the photographs. And they
22 just went last weekend and took his picture.

23 THE COURT: Okay. I will read the cases to make my
24 determination. I know that we're getting ready to start back,
25 but you-all give me five minutes.

1 MR. REISS: Yes, your Honor. And I tabbed --

2 THE COURT: I see.

3 MR. REISS: And toward your determination, your
4 Honor, let me at least play the relevant portion of the
5 videotape so you can see what we're talking about.

6 THE COURT: Okay.

7 MR. REISS: And for the record, I am looking at -- on
8 the DVD it is time coded, beginning at 4 hours 14 minutes
9 47 seconds.

10 (Video played.)

11 MR. REISS: Just for the record, I believe that that
12 pass appeared at 4 hours 15 minutes and approximately 30 to 35
13 seconds on the DVD.

14 THE COURT: All right. So what is it that the State
15 is wanting to do?

16 MR. REISS: Well, the issue as I see it is this, your
17 Honor, if Ms. Scardino wants to continue asking this officer,
18 in essence, for a legal conclusion -- well, okay, as to why is
19 it that this witness believes this was an intentional act,
20 which was the question, and he started to delineate all the
21 reasons based upon his talking with the family members, going
22 to the crime scene, the lack of any struggle, one of the things
23 that would be a factor to why this was an intentional act is
24 the fact that he's putting out there, in essence, that he likes
25 bullets, he's a tough guy. This goes to his intent. That's

1 why he's looking for a gun.

2 THE COURT: Isn't the issue intent to kill at the
3 moment that it occurs; isn't that right? He must -- for it to
4 be a capital he must intend to kill, right?

5 MR. REISS: It must be intent to murder, that is
6 correct.

7 THE COURT: And that's how he feels at the time. And
8 that doesn't seem to me like it's impacted by whatever's
9 tattooed on his body.

10 MR. REISS: Well -- but I think that goes to the
11 weight of the tattoo rather than the admissibility of the
12 tattoo, and the Byrd case gets to that. I mean, the fact
13 that -- and again, you know, I understand it's an Aryan Nation,
14 and in response to what Ms. Scardino said before, we're not
15 suggesting that Mr. Buckner is in a gang, and --

16 THE COURT: It's --

17 MR. REISS: That's not the issue. The issue is -- if
18 I may continue to respond, your Honor, the issue is that this
19 tattoo is relevant to his mens rea in the same manner that in
20 the Bird case the Aryan Nation tattoo was relevant to that mens
21 rea of a hatred of an intent to kill somebody.

22 THE COURT: And I think that a tattoo can indicate
23 your hatred for a particular race. I think a teenager with a
24 bullet tattoo does not get you to you intended to kill Aidee
25 Reyna at the time. So I'm going to prohibit you from

1 discussing that at this time.

2 MR. REISS: Okay. Thank you, your Honor.

3 THE COURT: While we're still on the record, though,
4 the back and forth speaking over each other and the speaking
5 objections have to end, and I will instruct both sides not to
6 argue with the witness. If you ask an open-ended question, I'm
7 going to allow the witness to continue with his answer to
8 conclusion. Please don't interrupt each other.

9 Let's bring out the jury if we're ready.

10 (Jury in.)

11 THE COURT: All right. You may be seated.

12 Ready to proceed?

13 MS. SCARDINO: Thank you, your Honor.

14 Officer Waters, thank you for your testimony. I pass
15 the witness.

16 MS. FULLER: Nothing further from this witness, your
17 Honor.

18 THE COURT: Thank you. Thank you so much. You're
19 excused.

20 THE WITNESS: Yes, ma'am. Thank you.

21 Call your next.

22 MS. FULLER: The State calls Dr. Gonsoulin.

23 MS. FULLER: May I proceed?

24 THE COURT: You may.

25 MS. FULLER: Thank you, your Honor.

1 DR. M.L. GONSOULIN,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. FULLER:

5 Q. Good afternoon. Would you please state and then
6 spell your name for the record.

7 A. My name is Dr. Morna Gonsoulin. That's M-o-r-n-a
8 G-o-n-s-o-u-l-i-n.

9 Q. Dr. Gonsoulin, who are you employed with?

10 A. I'm employed with the Harris County Institute of
11 Forensic Sciences, or the medical examiner's office.

12 Q. Okay. It used to be called the medical examiner's
13 office; is that right?

14 A. Yes.

15 Q. And they changed the name?

16 A. Yes.

17 Q. Okay. What are your job duties there?

18 A. Well, in general, it's determining cause and manner
19 of death in unintended deaths and deaths involving trauma in
20 Harris County.

21 Q. How long have you been employed there?

22 A. Since July of 2000.

23 Q. All right. Could you tell the jury a little bit
24 about your educational background and your professional
25 training that qualifies you in that area.